

**VIRGINIA DEPARTMENT OF LABOR AND INDUSTRY
DIVISION OF LABOR AND EMPLOYMENT LAW**

FIELD OPERATIONS MANUAL

CHAPTER EIGHT DAY OF REST

This document is part of the latest version of the Virginia Department of Labor and Industry Division of Labor and Employment Law's Field Operations Manual. This document supersedes any and all previous editions.

Last Revised July 2004

Section 8.00 Preventing Covered Employees Being Required to Work Seven (7) Days a Week

A. Coverage

The providing employees with a day of rest law is set forth in §§ 40.1-28.1 through 40.1-28.4 of the Code of Virginia and applies to private industry employers conducting business in the Commonwealth. Public employees are not covered (§ 40.1-2.1).

B. Summary

24 Hour Rule: As a general rule, Virginia law requires that every employer, except in an emergency, must allow each employee at least 24 hours of rest in each calendar week in addition to the regular periods of rest normally allowed or legally required (minors under 16 years of age) in each working day. (§ 40.1-28.1)

Sunday Rest Day: Non-managerial employees are also authorized as a matter of right under this law, to choose Sunday as a day of rest for their 24 consecutive hour period, provided that the employee files a written notice with the employer that he or she chooses Sunday as the chosen day of rest. Employers cannot discharge, discipline or penalize any employee for exercising this right. (§ 40.1-28.2)

Saturday Rest Day: Non-managerial employees who conscientiously believe that the seventh day of the week should be observed as Sabbath, and actually refrain from all secular business and labor on that day, are entitled to choose Saturday as their day of the week for the 24 hour rest period. Written notice must be filed by the employee to the employer. Employers are prohibited from disciplining or penalizing any employee for exercising these rights. (§ 40.1-28.3)

C. Case Assignment

1. Regional, Field, or Central Office staff person receives complaint.
2. The claimant should be requested to write a letter documenting all information relevant to the alleged violation. If Saturday or Sunday violations are alleged, have claimant furnish a copy of his or her written request to employer to have either Saturday or Sunday off.

D. Investigation

1. Interviews complainant.
2. Interviews employer.

3. Interviews all persons believed to have knowledge of the alleged violations.
4. Reviews employer's policy regarding working and nonworking days, and/or any other policy the employer may have that would impact the alleged violation.
5. Upon review of all facts, findings, testimonies, etc., representative determines the validity of the complaint.

E. Informal Resolution

1. Discuss findings and determination with employer.
2. Inform employer:
 - (1) To cease and desist violations detected.
 - (2) In the case of discharge, request that the affected employee(s) be immediately reinstated and paid all wages lost due to the termination.
 - (3) Criminal action may be taken by DOLI if compliance is not obtained.

F. Employer Refuses to Comply

At this time the Department of Labor and Industry is waiting for guidance from the Office of the Attorney General regarding the enforcement of the Day of Rest statutes.